

David K. Byers, Administrative Director
Administrative Office of the Courts
1501 W. Washington St., Suite. 411
Phoenix, AZ 85007
(602) 452-3301
Projects2@courts.az.gov

IN THE SUPREME COURT

STATE OF ARIZONA

| | | |
|---------------------------|---|-------------------------------------|
| PETITION TO AMEND |) | |
| RULE 26.10 OF THE ARIZONA |) | |
| RULES OF CRIMINAL |) | Supreme Court No. R-17-_____ |
| PROCEDURE |) | (expedited consideration requested) |
| _____ |) | |

Pursuant to Rule 28 of the Rules of the Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to amend Rule 26.10 of the Arizona Rules of Criminal Procedure. The proposed change will implement a new statutory provision included in Laws 2017, Chapter 27, HB 2085.

I. Background of the Proposed Rule Amendment

House Bill 2085 was passed in the First Regular Session of the Fifty-Fourth Legislature (2017). This statute impacts the Rules of Criminal Procedure, Part VII, Post-Verdict Proceedings.

Relevant to this petition, HB 2085 adds to the list of offenses which require fingerprints to be collected at sentencing. The crime of shoplifting was added.

II. The Proposed Change to Rule 26.10

The proposed addition to this rule is consistent with the amendment to A.R.S. § 13-607, adding shoplifting to the list of offenses which require the collection of fingerprints at sentencing. The proposed amendment is shown in the Appendix to this petition.

III. Preliminary Comments.

The petition was not circulated for pre-petition comments due to the technical nature of the amendment and the short time frame for filing this petition.

IV. Request for Emergency Adoption.

HB 2085 has an effective date of August 9, 2017, and action on this rule petition is required before the effective date. Petitioner accordingly respectfully requests expedited adoption of the proposed rule changes to conform Rule 26.10 to A.R.S. § 13-607, as permitted by Rule 28(G) of the Rules of the Supreme Court.

RESPECTFULLY SUBMITTED this 14th day of June, 2017

By /s/
David K. Byers, Administrative Director
Administrative Office of the Courts
1501 W. Washington Street, Suite 411
Phoenix, AZ 85007
(602) 452- 3301
Projects2@courts.az.gov

Appendix

(Additions are shown by underline)

Rule 26. JUDGMENT, PRE-SENTENCE REPORT, PRE-SENTENCING HEARING, SENTENCE

26.10 Pronouncement of judgment and sentence

a. Pronouncement of Judgment. In pronouncing judgment on non-capital counts, the court shall set forth the defendant's plea, the offense of which the defendant was convicted or found guilty, and a determination of whether the offense falls in the categories of dangerous, nondangerous, and repetitive or non-repetitive.

b. Pronouncement of Sentence. The Court shall:

- (1) Give the defendant an opportunity to speak on his or her own behalf;
- (2) State that it has considered the time the defendant has spent in custody on the present charge;
- (3) Explain to the defendant the terms of the sentence or probation;
- (4) Specify the commencement date for the term of imprisonment and a computation of time to be credited against the sentence as required by law; and
- (5) For any felony offense or a violation of §§ 13-1802, 13-1805, 12-1805, 28-1381, or 28-1382, permanently affix the defendant's right index fingerprint to the sentencing document or order.
- (6) Direct the Clerk of Court to send to the Department of Corrections, along with the sentencing order, copies of all pre-sentence reports, probation violation reports, medical and mental health reports prepared as to or relating to the defendant sentenced.